IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.241 OF 2003

IN

SUM.SUIT NO. 136 OF 2003

Brindco Sales Ltd., .. Plaintiff.

vs.

Lalit Bar & Restaurant. .. Defendant .

Mr. Simil Purohit i/by Kishore Thakordas & Co.
for the plaintiff.
Mr. S.J. Bhandary i/by Bhandary & Bhandary
for defendant.

CORAM : S.U.KAMDAR, J.

DATE : 13th January,2006.

P.C.

. The present suit is filed for the goods sold and delivered. The only defence raised is that the goods are not supplied to the plaintiff. The learned advocate appearing for the plaintiff has produced the original invoice which contains the endorsement of receipt of the goods by M/s. Lalit. The learned counsel for the defendant however disputes the said endorsement but on perusal of the endorsement on two invoices as well as on the

acknowledgment which is received in respect of the notice of demand it is clear that the rubber stamp belongs to the defendants. The learned counsel for the defendant thereafter contended that the licence number mentioned as FL-III-81 is not his licence. Merely because wrong licence number is mentioned in the invoice it is not possible to infer therefrom that goods are not delivered to the defendants. I do not find any substance in either of the contentions. In that light of the matter, I am of the view that the defendant can be given leave to defend only on condition of deposit of a sum of Rs. 1,50,000/- within a period of four weeks from today in this court failing which the plaintiff will be entitled to decree. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court. Summons for judgment disposed of accordingly.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.

3. Though the aforesaid order is passed, I am imposing costs on the plaintiff because from the perusal of the record it is found that the plaintiff’s advocate has been consistently negligent in prosecuting the present proceedings. The summons for judgment was dismissed on one occasion and was restored and even after restoration he remained absent on number of occasions. The learned counsel for the plaintiffs however submits that the said negligence be condoned on payment of costs. Accordingly, cost is imposed of Rs. 5,000/- to be paid by the plaintiff to the Maharashtra State Legal Services Authority within one week from today.